THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 19579 of 2007

Date:14-09-2007

Between:

Narayana **…Petitioner**

AND

The District Collector, Anantapur and two others

.. Respondents

ORDER:

The petitioner seeks a writ of mandamus to declare the action of the respondents in taking the land in Sy.No.280-2 to an extent of Ac.0.24 cents and 280-7 to an extent of Ac.1-01 cents situated in Y.B. Hally Polam, Madakasira mandal,Anantapur District including the 1/4th share of the petitioner without his knowledge and consent, as illegal and arbitrary.

It is the case of the petitioner that the land in Sy.No.280-2 to an extent of Ac.0.24 cents and 280-7 to an extent of Ac.1-01 cents situated in Y.B. Hally Polam, Madakasira mandal,Anantapur District is the ancestral property of the petitioner and his father was having half share and after the death of his father, the said property devolved on the petitioner and his brother and thus the petitioner is entitled to 1/4th share in the said property. But, his brother alienating the said property in favour of the government. It is stated that the brother of the petitioner has no exclusive right of ownership to alienate half of the said property as he has got only 1/4th share. It is further stated that the petitioner also got issued a notice under Section 80 of the Code of Civil Procedure not to purchase the said property from the brother of the petitioner by the District Collector.

I am of the opinion that if the petitioner has got 1/4th share in the property, it is for him to file appropriate civil proceedings. But, this Court cannot interfere with the said matter as to whether the petitioner has got 1/4th share or not and therefore, the writ petition filed by the petitioner is not maintainable and it is liable to be dismissed.

Accordingly, the writ petition is dismissed with liberty to file a

civil suit and establish his right over the said property. There shall be no order as to costs.

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V.ESWARAIAH, J.

Date:14.09.2007
ccm